



MINUTES OF THE MEETING OF THE HLG ON 22 OCTOBER 2010

Venue: Brussels, 22 October, from 10.00 to 17.00

Present: See presence list

Excused: Ms Fritsch (afternoon), Mr Mollerup, Mr Pesonen (afternoon)

1) **Agenda and minutes of the last meeting**

The agenda is adopted unanimously. The agenda point on the Smart Regulation Communication is moved to 7 December.

The minutes of the last meeting are adopted unanimously subject to modifications made by Mr Hontelez and subsequent modifications suggested by Ms Fritsch.

The chair informs members about the replacement of Mr Linschoten by Mr Dell'Alba.

Mr Gibbons would like to thank Mr Linschoten for his hard work and contribution to the work of the group.

2) **10.15: Regular exchange with the chair of the IAB**

The chair welcomes Ms Klingbeil and invites her to update the members on the activities of the IAB since the last meeting with Mr Italianer, former chair of the IAB.

Ms Klingbeil presents the work of the IAB in 2010 (members have been provided with a copy of the presentation).¹

3) **10:45: Draft Opinion on a future extension of the Action Programme**

The chair thanks Ms Fritsch for having accepted to take care of this draft at such short notice and invites her to present the revised draft.

Ms Fritsch thanks members and the secretariat for having helped her since the last meeting to revise the draft opinion and presents it in detail. She also mentions concerns that Ms Jongerius and Mr Hontelez had with some of the suggestions and addresses them in her presentation.

¹ Figures presented for 2010 are preliminary.

The chair thanks for this presentation and considers the current draft well-balanced.

Ms Jongerius voices her disagreement with a number of suggestions. She is in particular of the view that the HLG is going beyond its mandate when dealing with future legislation and involving itself as regards the political will behind regulations and directives. She mentions in particular legislation linked to equal opportunities and REACH.

Ms Fritsch does not see any conflict with respect to the mandate, given that the mandate explicitly mentions the suggestion of acts to be included in the action programme and that applies also to equal opportunities. Likewise, the draft opinion does not give any indications as to how the Commission should look at this legislative act.

Ms Jongerius points out that the equal opportunities legislation is not in force yet.

The chair does not share this interpretation of the mandate, in particular because there is already a directive on equal opportunities. He underlines that the HLG is only suggesting something to the Commission. He could understand if the Commission were to say to the HLG that it oversteps its mandate, but he does not want the HLG to interpret its mandate narrowly itself.

Mr Hontelez thanks Ms Fritsch for the preparation and in particular for the discussion before this meeting. However, he still has major concerns regarding this opinion; 9 out of 17 suggestions concern legislative acts in the area of environment. The draft also ignores the intensive work done earlier this year and there is no new evidence in this context. He recalls that the issue is not the level of administrative burdens but whether they are unnecessary or not. He asks for clarifications concerning the measurements that are requested in the draft. As regards REACH he recalls that right after the start is not the right moment for a review; a review is already foreseen. In general he would like to see the documents from stakeholders that ask for the inclusion of these acts. For a number of other proposals such as the energy tax Directive the timing is inappropriate; revision would only make sense at a later stage. As regards the Habitat and Birds Directives there has only been one regional government complaining during the last three years about excessive administrative burdens. He also is of the view that there is no problem of inflexibility as regards these directives; this has recently been explained by President Barroso in a letter to Prime Minister Balkenende. Proposing to include these directives would go beyond the mandate of the HLG. As regards waste recycling the HLG has already taken a position regarding important legislative acts in this area; the suggestion in the draft is very unspecific.

The chair assures Mr Hontelez that his remarks are always taken very serious and this applies also to remarks made today. It seems however impossible to come to an agreement about the draft opinion because Mr Hontelez seems to take the opinion as an attack on environmental protection policy as a whole. Following up on Mr Hontelez' intervention would mean not to extend the Action Programme to acts related to environmental issues at all beyond what the Commission proposed in 2009. He is of the view that the HLG should suggest a large number of legislative acts to the Commission, whilst it is up to the Commission to decide. Mr Hontelez' remarks remind him of the debates about fundamental issues that took place at the beginning of the work of the HLG; these discussions did not lead to agreements and majority votes were necessary.

Ms Fritsch does not share Mr Hontelez' views that the draft opinion is not balanced. This is not a question of numbers of legislative acts; regarding waste treatment for example, it would make no sense only to look at some but not all legislative acts regulating this area.

As regards cost of measurements she is of the view that there might very well be the need for a specific discussion on methodology but this is not related to this draft opinion. She is also not of the view that the suggestion concerning simplification potential in the Habitat and Birds Directives goes beyond the mandate.

Mr Dell'Alba reports that industry stakeholders have quite a number of concerns as regards REACH and environmental legislation in general. He also mentions that this legislation alters the situation of the European industry in a global economy. He agrees fully with the draft opinion.

Mr Teli•ka has difficulties to understand why the group discusses so much about the mandate. It would seem better to him to ask the Commission in cases of disagreement; the Commission could then state whether a certain view or suggestion of the group is still in line with the mandate or not. He also disagrees with the tendency of some members to interpret the mandate very narrowly. He supports the intention to go beyond the 72 acts in 13 priority areas. As regards REACH he shared some of Mr Hontelez' remarks but does not see any problems with the drafting of this opinion regarding this aspect. If everything has been done to keep administrative burdens to the minimum, the result of the measurement will show that, otherwise it will disclose additional opportunities for improving REACH. As regards the Energy Tax Directive he is aware that the question is difficult to answer but thinks that the HLG should not wait for the discussion about the reform to end before suggesting that a closer look is taken at administrative burden aspects when discussing the new directive. He shares Mr Hontelez' thoughts that there is an imbalance towards environmental legislation. He suggest finally that the HLG makes it clear that it regrets the slow implementation of the burden reduction measures.

Ms Pons (SG) recalls the content of the mandate. It is the intention of the Commission to integrate the reduction of administrative burdens and simplification into its normal working processes, once the action programme has ended. This is part of the cultural change that has started some time ago and yields first results. She indicates that the HLG is welcome to make suggestions for the reduction of burdens and for simplification but should not forget that the action programme will end relatively soon. She points out that the communication on Smart Regulation made clear that irritants are also targeted. She reminds that simplification and the reduction of administrative burdens are ex-post and that only unnecessary burdens are to be reduced. Finally she makes a formal remark stressing that opinions dealing both with administrative burden reduction and simplification issues should be signalled as such (here the title refers only to the administrative burden reduction programme).

Mr Murray agrees with what Ms Jongerius and Mr Hontelez said and he also joins Mr Hontelez in wanting to know from where the suggestions come. As regards data protection he explains that the discussion is rather not about administrative burdens but about the difficulty for enterprises to guarantee the personal right of privacy and data protection; this however is not an administrative burden. He finds in turn the money laundering legislation worth looking at. He would have nothing against calling on the Commission to watch out for too much red tape when reviewing REACH but would be against the HLG getting involved in this. As regards consumer credits he reminds members that he has always advocated for a "waiting time" for legislation recently entered into force.

Ms Krzysztozek supports the document; on patents she suggests however not to enter into details as regards which languages should be retained. The HLG should rather stay outside this language discussion.

Ms Jongerius reiterates her opposition as regards equal treatment. She is however particularly against the mentioning of the results of a Dutch study in this context. The amounts mentioned in the draft do not refer to administrative burden but to the whole cost of implementation. As regards REACH she underlines that a revision is already planned and she is therefore not against the HLG pointing at administrative burdens but the statement made in the draft is rather political and to this she is opposed.

Mr Gibbons sees the group drifting in two camps; part of this stems from the different way members read the mandate. It is in his mind intellectually impossible to separate the discussion of administrative burden and cost from the discussion of other cost. Compliance cost should therefore concern the group because they concern the European economy and stakeholders. He agrees with Mr Hontelez that what the HLG is supposed to point out are unnecessary burdens. Too much burden reduces the prospect of success of the legislation that is at stake. The reduction of burdens is supportive of the purpose of the legislation. He insofar disagrees with Ms Jongerius as regards her letter edited by ETUC and points out that if he had brought a letter from a European business organisation Ms Jongerius would most probably have hinted that this should not be the overriding concern in this group and he would have agreed with her. He agrees that equal treatment is a fundamental right but the letter misses to say that this right should be implemented in the least burdensome and most efficient way. The distinction between existing and future legislation is ignoring the huge difficulty to change existing legislation. This task is the most difficult within the smart regulation policy. Not to address issues when legislation is revised and future legislation discussed is a tremendous waste of time.

Mr Berger expresses his support in particular to the remarks made by Messrs Teli•ka and Gibbons. The HLG should not limit itself; it is up to the Commission to accept advice given or not. He considers the statement that the HLG is supporting business interests unfair. As regards his suggestion regarding the Energy Tax Directive he would have no problem if it were dropped.

Ms Fritsch refers to the suggestions made. She would like to take Mr Teli•ka's suggestion about the slow adoption of burden reduction measures on board. As regards the study data on equal opportunities as well as the reference to the choice of languages for patents she agrees with the deletion of the respective sentences. On IPPC she underlines that she would appreciate an update by the Commission once the legislative process is completed.

Mr Hontelez finds that the clarifications of Ms Pons regarding the timetable of the action programme confirm indirectly that it does not make much sense to give advice to the directive on renewables or buildings; the same goes for the energy tax directive. The birds and habitat directives are out of scope of the mandate of the HLG. He makes a number of suggestions for deletion related to environmental legislation and to adapt the conclusions accordingly.

Mr Murray suggest to delete the paragraph on consumer credits and not to suggest including REACH in the Action Programme.

The chair apologises for not having given the floor again to Mr Hontelez earlier but he did not have him on his list of those requesting the floor. The opposing views became clear throughout the discussion and will be noted in the minutes. In light of the advanced time, he invites members to cast their votes as regards the original draft with the modifications proposed by Ms Fritsch during the meeting. The draft is adopted by majority vote of 9

against 3. The HLG agrees that Ms Jongerius, Mr Hontelez and Mr Murray express their disagreement in a footnote in the opinion.

4) **Presentation of national reduction activities by Bulgaria**

The chair welcomes Ms Kotzeva, Director of the Bulgarian National Statistical Institute, and explains the context of the best practices report that the HLG is supposed to produce by November 2011.

Ms Kotzeva presents the Bulgarian efforts to reduce administrative burdens (members have been provided with a copy of the presentation).

The chair thanks for this presentation.

5) **Presentation of national reduction activities by Finland**

The chair welcomes Ms Orjala, Director at the Finnish Institute for Statistics.

Ms Orjala presents the Finnish efforts to reduce administrative burdens (members have been provided with a copy of the presentation).

The chair thanks for this presentation and points out that both presentations have shown the difficult relationship between the burden felt and the relatively low administrative cost that statistics impose on businesses.

6) **Presentation of national reduction activities by Portugal**

The chair welcomes Mr Tiago Silveira, State Secretary of the Presidency of the Portuguese Government.

Mr Tiago Silveira presents the Portuguese efforts to reduce administrative burdens (members have been provided with a copy of the presentation). Particular emphasis is also put on the electronic identity card that Portugal introduced. It allows citizens to register cars, create companies or access a number of services and data bases.

The chair thanks for this presentation and underlines the importance of the interesting example of e-government services with the new identity card. He is very content having learned that Portugal is putting such an effort behind the reduction of administrative burdens.

Mr Gibbons joins the chair in his thanks. He refers to the one-in / one-out principle recently introduced in the UK. He notes that Portugal seems to follow a similar line albeit at a purely numerical basis without weighing the burden of the abrogated as opposed to the new legislation. He would like to know whether Portugal considers following the approach of a number of Member States in setting up an independent scrutiny body for evaluating legislation.

Ms Pons would be grateful if Portugal could send for the November 2011 report a more detailed description of the concept of the new identity card in writing.

Mr Tiago Silveira points out that the repealing of more than 430 unnecessary pieces of legislation is more a clean-up, an increase of clarity and access to law; the reduction of administrative burden is of lesser importance in this context. Portugal is also attempting to

reduce the number of bills introduced in 2010 and it seems, two months before the end of the year that the lowest number of bills in 30 years will be passed this year. He deems structures for the evaluation of legislation inside the administration more important than an independent body. However, the main purpose is to gain critical mass inside the administration to look into the details of legislation, to evaluate bills etc. Portugal offers its officials training on evaluation, interviewing stakeholders, calculation of cost etc. Working groups are formed across different parts of ministries to make sure that the ministries take ownership of the tasks. Training sessions will go on till March 2011. By then the ministries should choose themselves a subject matter for closer scrutiny.

7) **AOB**

The chair refers to the list of priority areas and tasks for each member and states that the attribution should be finalised and decided upon at the next meeting.

Mr Gibbons thanks all members for their willingness to take up areas and tasks. Less and less areas are still open, however Home Affairs would still be open for indications of interest.

The chair closes the meeting at 17.00.

Adopted by the HLG in Brussels on 7 December 2010.